

## STATE OF SOUTH CAROLINA

(Caption of Case)

In the Matter of:

Application of Duke Energy Carolinas, LLC for  
Authority to Adjust and Increase Its Electric Rates  
and Charges

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

## COVER SHEET

DOCKET

NUMBER: 2009 - 226 - E

(Please type or print)

Submitted by: Timika Shafeek-HortonSC Bar Number: 75451

Address: Duke Energy  
550 S Tryon St., DEC45A  
Charlotte, NC 28202

Telephone: 704.382.6373

Fax: \_\_\_\_\_

Other: \_\_\_\_\_

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

**DOCKETING INFORMATION** (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☒ Other: Motion to Amend Settlement Agreement

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input checked="" type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

December 16, 2011

Ms. Jocelyn Boyd  
Chief Clerk and Administrator  
Public Service Commission of South Carolina  
Post Office Drawer 11649  
Columbia, South Carolina 29211

RE: Duke Energy Carolinas, LLC Motion to Amend Settlement Agreement  
PSCSC Docket No. 2009-226-E

Dear Ms. Boyd:

Duke Energy Carolinas, LLC (the "Company") would like to give its industrial customers who have chosen to opt out of the demand-side management ("DSM") portion of Rider EE the opportunity to participate in new non-residential DSM programs as they become available. However, based on the current terms of the Settlement Agreement related to Docket No. 2009-226-E, the time for deciding whether to participate has passed. Thus, the Company seeks to amend the settlement agreement to give, on an annual basis, qualifying industrial customers who are not participating in the Company's DSM programs the opportunity to do so. The Company also proposes to shorten the four-year participation period for DSM programs to three years.

Additionally, the Company seeks to align the participation dates for the EE and DSM components of Rider EE by changing the opt-in dates to November 1 through December 31 of each year. The proposed opt-in dates have almost passed and the Company wants to make sure customers have the opportunity to act, to decide whether to participate, not participate, or cease participating. For this reason, the Company requests that for one time only, the new annual election run from January 1, 2012 through March 1, 2012. After March 1, 2012, the annual election would occur November 1 through December 31 of each year. Allowing the annual election period to occur once in the January time frame will give the Company time to make its customers aware of the new opt-in opportunity.

The Company is therefore filing this motion to respectfully request the Commission enter an order granting a modification to the Company's Settlement Agreement that would allow industrial customers to make an annual election regarding their participation in the DSM component of Rider EE, shorten the participation period, and align the opt-in dates as described above.

Please contact me if you have any questions.

Respectfully submitted,

  
Timika Shafeek-Horton

Copy: Shannon Hudson, ORS Staff Attorney (via email & U.S. Mail)  
Other parties of record

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**DOCKET NO. 2009-226-E**

In the Matter of

	)	
Application of Duke Energy Carolinas,	)	<b>DUKE ENERGY CAROLINAS, LLC'S</b>
LLC for Authority to Adjust and Increase	)	<b>MOTION TO AMEND SETTLEMENT</b>
Its Electric Rates and Charges	)	<b>AGREEMENT</b>
	)	

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NOW COMES Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or "the Company") to respectfully request from the Commission approval to amend certain terms of the Settlement Agreement approved by the Public Service Commission of South Carolina (the "Commission") in this docket in its *Order Approving Increase in Electric Rates and Charges, No. 2010-79*, dated January 27, 2010. Specifically, the Company seeks to amend the limitation of a one-time election to give, on an annual basis, qualifying customers who are not participating in Duke Energy Carolinas' demand-side management ("DSM") programs the opportunity to opt-in. The Company also seeks to align the dates of the annual election period for the energy efficiency ("EE") and DSM components of the rider, and shorten the participation period from four years to three. In support of the Motion the Company states as follows:

1. On November 24, 2009, ORS, on behalf of all Parties except the Green Party ("Settling Parties"), filed an Explanatory Brief and Joint Motion for Approval of Partial Settlement and Adoption of Settlement Agreement ("Settlement Agreement").
2. On January 27, 2010, Duke Energy Carolinas received Commission approval for a rider ("Rider EE") designed to collect sufficient revenues to cover the Company's

energy efficiency and demand side management program costs, lost revenues, and an incentive.

3. In approving the Company's request for Rider EE, the Commission also adopted certain opt-out provisions for industrial customers contained within the Settlement Agreement. These terms provided that industrial customers may opt out of the EE component of Rider EE on an annual basis from January 1 to March 1 and may opt out of the demand-side management ("DSM") component of Rider EE upon a one-time election, for the four year energy efficiency plan, made within sixty days of January 27, 2010.
4. Industrial customers who chose to opt-out from the DSM programs do not have to pay the DSM portion of Rider EE and are not allowed to participate in Duke Energy's non-residential DSM programs for the term of the Save-a-Watt program.
5. Since the EE Order, Duke Energy Carolinas has added a new non-residential DSM program, PowerShare CallOption. This program was implemented in response to customer requests for additional flexibility in the load curtailment opportunities offered by the Company.
6. Based on the flexibility of this new program, the Company believes the DSM program will be more attractive to industrial customers, which could lead to additional DSM capabilities and benefit all customers. However, to achieve these results, the Company needs to amend the opt-out provisions of the original settlement agreement to allow the Company to offer the program to industrial customers who originally chose to opt out.
7. The Company proposes to amend Section III, paragraph 6 of the Settlement Agreement to read as follows (Section III, paragraphs 6 a) and b) of the Settlement Agreement will

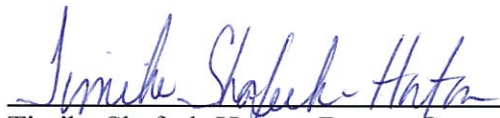
not change: “The Parties agree that all qualified industrial customers may elect to opt out of the energy efficiency and/or the demand-side management components of Rider EE on an annual basis for the four year energy efficiency plan. The election periods for the DSM and EE components would occur during the annual EE election period, commencing on November 1 and ending on December 31 of each year. Once a customer opts in to the Rider EE DSM component, the customer will pay the DSM portion of the Rider. If the customer participates in a DSM program, the customer is required to pay the Rider EE DSM cost for three years. However, if a customer elected to opt in to the Rider EE DSM component and paid the Rider EE DSM amount, but did not enter into an agreement with the Company for a DSM program, the customer could opt out during a future annual election period and cease paying the DSM portion of Rider EE at that time. Participation in a DSM program is limited to three years for customers who already have selected to opt-in and have entered into an agreement for a DSM program. Customers who desire to continue participating in a DSM program beyond year three would remain opted-in to the Rider EE DSM component for at least another year, depending upon any relevant contract between the customer and the Company. The rider charge applicable to EE programs and/or DSM programs will not be applied to customers who have chosen to opt out of the programs. To qualify to opt out, the customer must:”.

8. Subject to the Commission’s approval of the above described modification, all parties to the Settlement Agreement have approved the Amendment as indicated on Attachment 1.

Because the filing date of this motion coincides with the proposed election period for the DSM component, the Company proposes to allow a one-time DSM election period for industrial customers from January 1, 2012 to March 1, 2012. After that election period, the election periods for both EE and DSM components would occur each year from November 1 to December 31.

WHEREFORE, for the reasons set forth above, Duke Energy Carolinas respectfully requests that the Commission enter an order granting the above described modification to the Company's Settlement Agreement to allow industrial customers to make an annual election regarding their participation in the DSM component of Rider EE, and to allow a one-time DSM election period for industrial customers from January 1, 2012 to March 1, 2012.

Respectfully submitted this the 19<sup>th</sup> day of December, 2011.



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Timika Shafeek-Horton, Deputy General Counsel  
Duke Energy Corporation  
Post Office Box 1006  
Charlotte, North Carolina 28201-1006  
Telephone: 704-382-6373  
Timika.Shafeek-Horton@duke-energy.com



**AMENDMENT No. 1**

SOUTH CAROLINA ENERGY USERS COMMITTEE, ENVIRONMENTAL DEFENSE FUND, NATURAL RESOURCES DEFENSE COUNCIL, SOUTH CAROLINA COASTAL CONSERVATION LEAGUE, SOUTHERN ALLIANCE FOR CLEAN ENERGY, SOUTHERN ENVIRONMENTAL LAW CENTER, THE OFFICE OF REGULATORY STAFF, and DUKE ENERGY CAROLINAS, LLC do hereby mutually agree and consent to the amendment of the Settlement Agreement between the parties in Docket No. 2009-226-E, dated January 27, 2010, which Settlement Agreement is hereby modified in the following respect only:

Section III, paragraph 6 should now read, "The Parties agree that all qualified industrial customers may elect to opt out of the energy efficiency and/or the demand-side management components of Rider EE on an annual basis for the four year energy efficiency plan. The election periods for the DSM and EE components would occur during the annual EE election period, commencing on November 1 and ending on December 31 of each year. Once a customer opts in to the Rider EE DSM component, the customer will pay the DSM portion of the Rider. If the customer participates in a DSM program, the customer is required to pay the Rider EE DSM cost for three years. However, if a customer elected to opt in to the Rider EE DSM component and paid the Rider EE DSM amount, but did not enter into an agreement with the Company for a DSM program, the customer could opt out during a future annual election period and cease paying the DSM portion of Rider EE at that time. Participation in a DSM program is limited to three years for customers who already have selected to opt-in and have entered into an agreement for a DSM program. Customers who desire to continue participating in a DSM program beyond year three would remain opted-in to the Rider EE DSM component for at least another year, depending upon any relevant contract between the customer and the Company. The rider charge applicable to EE programs and/or DSM programs will not be applied to customers who have chosen to opt out of the programs. To qualify to opt out, the customer must:"

Except as expressly modified herein, the said Settlement Agreement shall remain in full force and effect and is hereby ratified and affirmed.

**ATTEST:**

**Duke Energy Carolinas, LLC:**

By:   
Timika Shafeek-Horton, Esquire

**ATTEST:**

**OFFICE OF REGULATORY STAFF**

By: \_\_\_\_\_  
Shannon Bowyer Hudson, Esquire

**AMENDMENT No. 1**

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**ATTEST:**

**Duke Energy Carolinas, LLC:**

By: \_\_\_\_\_  
Timika Shafeek-Horton, Esquire

**ATTEST:**

**OFFICE OF REGULATORY STAFF**

By: Shannon Bowyer Hudson  
Shannon Bowyer Hudson, Esquire



**ATTEST:**

**SOUTH CAROLINA ENERGY USERS COMMITTEE**

By: 

\_\_\_\_\_  
Scott Elliott, Esquire

**ATTEST:**

**ENVIRONMENTAL DEFENSE FUND, NATURAL  
RESOURCES DEFENSE COUNCIL, SOUTH CAROLINA  
COASTAL CONSERVATION LEAGUE, SOUTHERN  
ALLIANCE FOR CLEAN ENERGY AND SOUTHERN  
ENVIRONMENTAL LAW CENTER**

By: \_\_\_\_\_

J. Blanding Holman, Esquire  
Gudrun Thompson, Esquire

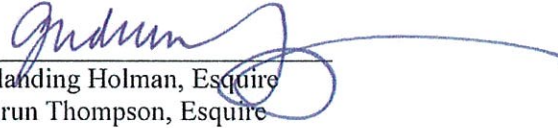
ATTEST:

SOUTH CAROLINA ENERGY USERS COMMITTEE

By: \_\_\_\_\_  
Scott Elliott, Esquire

ATTEST:

ENVIRONMENTAL DEFENSE FUND, NATURAL  
RESOURCES DEFENSE COUNCIL, SOUTH CAROLINA  
COASTAL CONSERVATION LEAGUE, SOUTHERN  
ALLIANCE FOR CLEAN ENERGY AND SOUTHERN  
ENVIRONMENTAL LAW CENTER

By:   
J. Blanding Holman, Esquire  
Gudrun Thompson, Esquire